

Crook, decreed, that the cause be remanded to the Court of Chancery, and that unless McClellan should pay into said court the sum of \$485 49, with interest on the sum of \$379 12. from the 19th of November, 1844, until so brought into said Court of Chancery on or before the 1st of April, 1847, then the said mortgaged premises be sold for the payment of said sum and interest, under the orders and decrees of said Court of Chancery, according to the usual course of the said court in such cases, and appointing a trustee to make said sale.

On the 22d of January, 1849, McClellan filed his present bill in this case, in which, after stating the above proceedings in the former case, he avers that Crook continued the occupation of the mortgaged premises for a long time beyond the time up to which the account in the Court of Appeals charged him with rent, and that he in fact continued to occupy the premises up to the 15th of May, 1847, while the account in the Court of Appeals was necessarily limited to and ended with the 19th of November, 1844, and that agreeably to the principles settled by said account in the Court of Appeals, charging the said Crook with rent at the rate of \$400 per annum, nothing would remain due him on said mortgage claim, yet he nevertheless insists that the property shall be sold under the said decree of the Court of Appeals, as if the said mortgage claim, as stated in the audit in said appellate court, remained due and unpaid, and subject to no abatement. The bill further charges that said Crook is now insolvent, and complainant would be without any remedy against him for any part of the rent so accrued to the complainant since the said 19th of November, 1844, except by an injunction from this court, arresting the sale of the property, and a decree directing satisfaction to be entered of said decree as passed by the Court of Appeals, and the prayer of the bill is for such injunction and decree, and for general relief. The injunction was granted as prayed.

The defence taken by the answer of Crook was, that by the principle of the decree of the Court of Appeals, which greatly reduced his original claim, he was chargeable for the rents and profits of the mortgaged estate from a certain day mentioned